

Introduced by Senator Cedillo

February 15, 2007

An act to amend Section 1290 of, and to add Section 1262.3 to, the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 275, as introduced, Cedillo. Health facilities: patient transporting.

Existing law provides for the licensure and regulation of health facilities by the State Department of Health Services. Effective July 1, 2007, these responsibilities will be transferred to the State Department of Public Health. A violation of these provisions is a crime.

Existing law requires each hospital to have in effect a written discharge planning policy and process that requires appropriate arrangements for posthospital care and a process that requires that each patient be informed, orally or in writing, of the continuing care requirements following discharge from the hospital, as specified.

Existing law also prohibits a hospital from causing the transfer of homeless patients from one county to another county for the purpose of receiving supportive services from a social service agency, health care service provider, or nonprofit social service agency within the other county, without prior notice and authorization, as specified.

This bill would prohibit a general acute care hospital, acute psychiatric hospital, or special hospital from causing a patient to be transported to a location other than the residence of the patient without the informed consent of the patient, except as specified. It would also apply this prohibition to a staff member of these health care facilities who is responsible for the discharge of a patient. This bill would also make the violation of this bill punishable as a misdemeanor, as specified.

By creating a new crime, this bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1262.3 is added to the Health and Safety
2 Code, to read:

3 1262.3. (a) No general acute care hospital, acute psychiatric
4 hospital, or special hospital may cause a patient to be transported
5 to a location other than the residence of the patient without the
6 informed consent of the patient, except when the patient is lawfully
7 transferred to another health facility.

8 (b) No staff member of a general acute care hospital, acute
9 psychiatric hospital, or special hospital, who is responsible for the
10 discharge of a patient may cause a patient to be transported to a
11 location other than the residence of the patient without the informed
12 consent of the patient, except when the patient is lawfully
13 transferred to another health facility.

14 (c) For purposes of this section, “residence of the patient” means
15 the home of the patient, the fixed and regular nighttime residence
16 or domicile of the patient, or, in the case of a homeless patient, as
17 defined in Section 1262, the location given to the hospital by the
18 patient as his or her principle dwelling.

19 SEC. 2. Section 1290 of the Health and Safety Code is amended
20 to read:

21 1290. (a) Except as provided in subdivision (b) ~~or~~, (c), or (d),
22 any person who violates this chapter or Section 127050 or 128600,
23 or who willfully or repeatedly violates any rule or regulation
24 adopted under this chapter or Section 127050 or 128600 is guilty
25 of a misdemeanor and upon conviction thereof shall be punished
26 by a fine not to exceed one thousand dollars (\$1,000) or by
27 imprisonment in the county jail for a period not to exceed 180
28 days, or by both the fine and imprisonment.

1 (b) Any person who violates Section 1286 is guilty of an
2 infraction and shall be punished by a fine of not more than one
3 hundred dollars (\$100).

4 (c) Any person who willfully or repeatedly violates this chapter
5 or Chapter 2.4 (commencing with Section 1417), excluding
6 Sections 1425 and 1432, or any rule or regulation adopted under
7 this chapter, relating to the operation or maintenance of a long-term
8 health care facility as defined in Section 1418, is guilty of a
9 misdemeanor and upon conviction thereof shall be punished by a
10 fine not to exceed two thousand five hundred dollars (\$2,500) or
11 by imprisonment in the county jail for a period not to exceed 180
12 days, or by both.

13 In determining the punishment to be imposed upon a conviction
14 under this subdivision, the court shall consider all relevant facts,
15 including, but not limited to, the following:

16 (1) Whether the violation exposed the patient to the risk of
17 death or serious physical harm.

18 (2) Whether the violation had a direct or immediate relationship
19 to the health, safety, or security of the patient.

20 (3) Evidence, if any, of willfulness.

21 (4) The number of repeated violations.

22 (5) The presence or absence of good faith efforts by the
23 defendant to prevent the violation.

24 *(d) A health facility that violates subdivision (a) of Section*
25 *1262.3 is guilty of a misdemeanor and upon conviction thereof*
26 *shall be punished by a fine not to exceed ten thousand dollars*
27 *(\$10,000). Any person who violates subdivision (b) of Section*
28 *1262.3 is guilty of a misdemeanor and upon conviction thereof*
29 *shall be punished by a fine not to exceed two thousand dollars*
30 *(\$2,000) or by imprisonment in the county jail for a period not to*
31 *exceed one year, or both.*

32 ~~(d)~~

33 (e) For the purposes of this section, “willfully” or “willful”
34 means the person doing an act or omitting to do an act intends the
35 act or omission, and knows the relevant circumstances connected
36 therewith.

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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